

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWIGHT HILL,

Plaintiff,

CASE NO. 1:20-CV-542

v.

HON. ROBERT J. JONKER

RICKEY J. COLEMAN, *et al.*,

Defendants.

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Kent's Report and Recommendation in this matter (ECF No. 97); Plaintiff's Objections (ECF No. 99); and the response filed by Defendants McIntyre, Blessman, and Doolittle (ECF No. 100). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's Objections. The Court finds the Magistrate Judge's Report and Recommendation, which recommends granting Defendants McIntyre,

Blessman, and Doolittle's motion for summary judgment based on lack of exhaustion of administrative remedies (ECF No. 47), factually sound and legally correct.

The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. In his objections, Plaintiff primarily reiterates and expands arguments he has already presented. His objections do not address the Report and Recommendation in any persuasive way. To the contrary, none of Plaintiff's objections change the fundamental analysis. For the very reasons the Report and Recommendation details, Plaintiff has not exhausted his claims against Defendants McIntyre, Blessman, and Doolittle, and summary judgment in favor of these defendants based on lack of exhaustion is appropriate.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 97) is **APPROVED AND ADOPTED** as the opinion of the Court.
2. The motion for summary judgment based on failure to exhaust administrative remedies filed by Defendants McIntyre, Blessman, and Doolittle (ECF No. 47) is **GRANTED**.
3. Defendants McIntyre, Blessman, and Doolittle are **DISMISSED** from the case.

Dated: September 14, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE